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09/898,858	07/03/2001	Steve Guzorek	23635-018137	3556

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Patrick D. Richards
McDermott, Will & Emery
31st Floor
227 West Monroe Street
Chicago, IL 60606

EXAMINER

CHOI, JACOB Y

ART UNIT

PAPER NUMBER

2875

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/898,858

Applicant(s)

GUZOREK, STEVE

Examiner

Jacob Y Choi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13, 14, 16 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13, 14, 16 and 21-23 is/are rejected.
- 7) ☒ Claim(s) 24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4-11, 13, 14, 21, 22, 23, & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bach (USPN 5,894,130) in view of either Brickley (USPN 5,902,552) or Mazzilli (USPN 5,523,057).

Regarding claim 1, Bach discloses a power unit having circuitry for powering the ultra-violet lamp including a lever that acts as a switch (36,37), and a mounting bracket having the lever for selectively engaging the switch. Bach discloses the claimed invention except for the switch. Either Brickley or Mazzilli teaches that it is known to modify ultraviolet air sterilization device with a switch member that turns on/off the ultraviolet lamp. It would have been obvious to having ordinary skill in the art at the time the invention was made to use modification in Bach, as taught by either Brickley or Mazzilli in order to include what is commonly known as a switch, which powers the ultraviolet lamp selectively.

Note: it is obvious that the ultra-violet lamp of mentioned reference requires circuitry for powering the lamp source

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Regarding claim 2, Bach in view of either Brickley or Mazzilli disclose the claimed invention, explained above. In addition, Bach discloses the mounting bracket further comprises an aperture (figure 6b) for mounting the ultra-violet lamp therethrough.

Regarding claim 4, Bach in view of either Brickley or Mazzilli disclose the claimed invention, explained above. In addition, Bach discloses the mounting bracket further comprises a collar for coupling the power unit thereto.

Regarding claim 5, Bach in view of either Brickley or Mazzilli disclose the claimed invention, explained above. In addition, Bach discloses the collar further comprises one or more lips for engaging the lamp cartridges. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lamp cartridges of Bach to include power unit, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Regarding claims 6 & 22, Bach in view of either Brickley or Mazzilli disclose the claimed invention, explained above. In addition, Bach discloses the lamp cartridges further comprise a collar for coupling the mounting bracket thereto. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the lamp cartridges of Bach to include power unit, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Regarding claim 7, Bach in view of either Brickley or Mazzilli disclose the claimed invention, explained above. In addition, Bach discloses the collar further comprises one or more lips for engaging the mounting bracket.

Regarding claim 8, Bach in view of either Brickley or Mazzilli disclose the claimed invention, explained above. In addition, Bach discloses the power unit is rotatably mounted to the mounting bracket.

Regarding claim 9, Bach in view of either Brickley or Mazzilli disclose the claimed invention, explained above. In addition, Bach discloses the mounting bracket assembly further comprises a sight hole.

Regarding claim 10, Bach in view of either Brickley or Mazzilli disclose the claimed invention, except for the sight hole further comprises a lens. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a lens member to allow a user to observe whether energized ultraviolet lamp within a system are functioning properly. In addition, aperture of Bach appears that the invention would perform equally well with or without the lens member being added to the aperture.

Regarding claim 11, Bach in view of either Brickley or Mazzilli disclose the claimed invention, explained above. In addition, Bach discloses the mounting bracket further comprises one or more stops for guiding the mounting of the power unit with respect to the mounting bracket.

Regarding claim 13, Bach in view of either Brickley or Mazzilli disclose the claimed invention, explained above. In addition, Bach discloses the power unit circuitry further comprises ballast.

Regarding claim 14, Bach in view of either Brickley or Mazzilli disclose the claimed invention, explained above. In addition, Bach discloses the power unit further comprises a switch channel.

Regarding claim 21, Bach discloses a power unit having electrical circuitry for operating the ultra-violet lamp, and circuitry including an ultra-violet lamp socket and a lever that acts as a switch (36,37), and a mounting bracket having means for engaging the lever when the mounting bracket is mounted to an air duct. Either Brickley or Mazzilli teaches that it is known to modify ultraviolet air sterilization device with a switch member that turns on/off the ultraviolet lamp. It would have been obvious to having ordinary skill in the art at the time the invention was made to use modification in Bach, as taught by either Brickley or Mazzilli in order to include what is commonly known as a switch, which powers the ultraviolet lamp selectively.

Regarding claim 23, Bach in view of either Brickley or Mazzilli disclose the claimed invention, explained above. In addition, Bach discloses the means for engaging the switch (lever 36, 37) when the mounting bracket is mounted to an air duct further includes a lever (36, 37) and biasing means (the cartridges are configured to automatically de-energize the lamp when a lamp cartridge is removed from the housing) for biasing the lever away from the switch.

Regarding claim 16, Bach in view of either Brickley or Mazzilli disclose the structural limitations of the claimed invention, explained above. It has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative sense, and not to amount to the mere claiming of a

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use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961). Therefore, it would have been obvious to provide a power unit having electrical circuitry including a switch and an ultra-violet lamp socket providing a mounting bracket having a lever, attaching the mounting bracket to the air duct and mounting the power unit to the mounting bracket such that the ultra-violet lamp extends into the interior of the air duct and the mounting bracket lever engages the electrical switch.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bach (USPN 5,894,130) in view of either Brickley (USPN 5,902,552) or Mazzilli (USPN 5,523,057) as applied to claim 1 above, and further in view of Ullrich (USPN 5,334,905).

Regarding claim 3, Bach in view of either Brickley or Mazzilli disclose the claimed invention, except for the lever is spring-loaded. Ullrich teaches that it is known to modify the level to be spring loaded. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify lamp cartridges having a lever with a spring loaded system, connecting the bracket, as taught by Ullrich in order to press fit the lamp into the level, electrically connecting the lamp power.

Response to Amendment

4. Examiner acknowledges that the applicant has cancelled claims 12, 15, 17-20, amended claims 1, 3, 8, 13, & 16 and newly added claims 21-24.

Response to Arguments

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5. Applicant's arguments with respect to claims 1-11,13,14,16 and 21-23 have been considered but are moot in view of the new ground(s) of rejection.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Ullrich teaches an immersible lamp for use in a photochemical reactor and that applicant's invention discloses an ultra-violet lamp device for mounting ultra-violet lamp to an air duct it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structure limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Allowable Subject Matter

6. Claim 24 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: the claim recites the biasing portion biases the lever towards a first position

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such that the biasing portion extends away from the back surface of the mounting bracket and the switch-engaging portion does not engage the switch, further wherein securing the mounting bracket to the air duct places the lever in a second position such that the switch-engaging portion engages the switch and the biasing portion does not extend away from the back surface of the mounting bracket. None of the references cited disclose the details of the biasing portion biases the lever towards a first position and a second position of the switch, nor is there any motivation to combine them, the claims are deemed patentable over the prior art of record.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

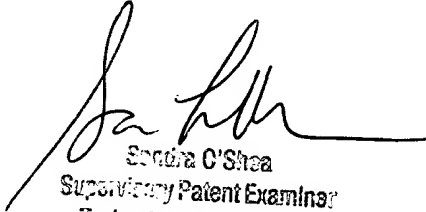
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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob Y Choi whose telephone number is (703) 308-4792. The examiner can normally be reached on Monday-Friday (10:00-7:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-7724.

JC
June 2, 2003


Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800